

1982 WL 189203 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 11, 1982

*1 The Honorable Virginia L. Crocker
Member
House of Representatives
District No. 15-Laurens County
Box 975
Clinton, SC 29325

Dear Representative Crocker:

You have requested an opinion whether the compensation of members of the Clinton-Newberry Natural Gas Authority is governed by [§ 6-11-91, Code of Laws of South Carolina](#), 1976 (as amended), and also whether a bill providing for the payment of per diem and actual expenses to those members would be consistent and permissible in light of [§ 6-11-91, Id.](#) It is the opinion of this Office that members of the Authority would be governed by [§ 6-11-91 Id.](#), and that a special act relating to their compensation would likely be unconstitutional.

As to the first matter, the Authority appears to have been created as a special purpose district by Act No. 789 of 1952. It was created as a body corporate and politic. [§ 1, Id.](#) It performs a governmental function as do other special purpose districts. [Welling v. Clinton Newberry Natural Gas Authority](#), 221 S.C. 417, 424; 7 S.E.2d 7, 10, (1952). Furthermore, it performs its functions in a defined service area. [§ 2 of Act No. 789](#). Therefore, the Authority possesses the characteristics of a special purpose district, and as such would be governed by [§ 6-11-91, Code of Laws of South Carolina](#), 1976 (as amended), with respect to changing the compensation of members of the Authority.

You asked also whether a bill providing for the payment of per diem and actual expenses to members of the Authority would be consistent and permissible in light of the provisions of [§ 6-11-91, Id.](#) There is no statutory reason which would prohibit the General Assembly from changing the compensation of members of the Authority because the powers of the General Assembly are plenary, and may be limited only by constitutional restrictions. [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1974).

There are, however, two constitutional provisions which may prohibit a special act changing the compensation of members of the Authority. Article VIII, [§ 7](#) and [§ 10, of the South Carolina Constitution](#) prohibits laws for a specific county or municipality. This prohibition may apply to a district, performing a local governmental function which encompasses more than one such political subdivision. [Torgerson v. Craver](#), 267 S.C. 558, 568, 230 S.E.2d 228, 232, (1976) (Gregory, J., dissent). Therefore, the Home Rule Amendment to the Constitution may now prohibit a special act relating to the Authority. The second constitutional provision which may prohibit such a special act is [Article III, § 34\(IX\), South Carolina Constitution](#), which prohibits an special law in those instances when a general law can be made applicable. See, [Gilbert v. Bath](#), 267 S.C. 171, 184, 227 S.E.2d 177, 183, (1976). In this case, a general law has been enacted which is applicable. [§ 6-11-91, Code of Laws of South Carolina](#), 1976 (as amended). Therefore it would appear that a special act changing the compensation of the members of the Authority may also violate [Article III, § 34 of the Constitution](#). For the above reasons, it is the opinion of this Office that [§ 6-11-91](#) is applicable to the Clinton-Newberry Natural Gas Authority and that a special act changing the compensation of its members would most likely be unconstitutional.

Sincerely yours,

*2 David C. Eckstrom

Assistant Attorney General

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